

"Exhibit"
UC DAVIS
HEALTH SYSTEM
TELEMEDICINE

41B

July 19, 2006

RE: WILLIAMS, ANTONIO
MR#: 1827333
DOB: 12/26/1963
Date of Service: 07/19/2006
CDC#: J05660

Harold Tate, M.D.
California Correctional Institute
P.O. Box 1031
Tehachaple, CA 93581

Dear Dr. Tate:

Thank you very much for requesting a consultation on behalf of Antonio Williams, whom I had the pleasure of seeing in Orthopedic Telemedicine Clinic.

History Of Present Illness:

As you know, Mr. Williams is a right-handed gentleman who in 2002 suffered a severe traumatic right shoulder glenohumeral dislocation. The shoulder was dislocated with a dead-arm syndrome, numbness, tingling, and weakness in the arm. Since that time, he has had recurrent episodes of shoulder dislocation, more than five occasions. When it does happen, his arm tends to be weak and numb. He has pain at night, pain worse while trying to sleep or turn on that side. Pain is worse with any impingement maneuvers. He has had an x-ray which is within normal limits and an MRI showing tendinopathy within supraspinatus tendon and minimal AC joint hypertrophy. At this stage, he willing to discuss a shoulder stabilization procedure.

Past Surgeries:

1. ~~Status post jaw fracture~~

Medical Illnesses:

1. Hypertension.
2. Gastroesophageal reflux disease.

Medications:

Ranitidine, triamterene, hydrochlorothiazide, Naprosyn.

Allergies:

None known.

Family History:

Noncontributory.

Social History:

He is incarcerated.

Review Of Systems:

I refer you to the paper medical record.

Physical Examination:

RE: WILLIAMS, ANTONIO
MR#: 1827333

Page 2

On physical examination, he is an alert, cooperative gentleman in no acute distress. Gait and posture are normal. His arms are in restraints. Unfortunately, because of security clearance the restraints could not be removed and I could not perform a standard physical examination.

The MRI and x-ray results are as above.

Assessment:

Right shoulder glenohumeral dislocation, recurrent by history. Evaluation limited by the inability to do a physical examination because of restraints due to security clearance.

Plan:

I am recommending that Mr. Williams be evaluated for a capsular stabilization procedure. I realize that my recommendation is limited by the constraints of being unable to do a physical examination, but I feel it is quite reasonable given his history.

The patient was educated in the impression and the plan of care.

Thank you very much for your kind request for consultation.

Sincerely yours,

JEFFREY L TANJI, MD
ASSOCIATE MEDICAL DIRECTOR
DIVISION OF UCDHS PRIMARY CARE NETWORK
DEPARTMENT OF SPORTS MEDICINE
THIS WAS ELECTRONICALLY SIGNED - 07/21/2006 1:15 PM PST BY:

JLT:js(ml006)

D: 07/19/2006 08:49 AM
T: 07/20/2006 02:32 PM
C#: 2001149

OB

CALIFORNIA

DEPARTMENT OF CORRECTIONS

HEALTH CARE SERVICES PHYSICIAN REQUEST FOR SERVICES

(To be completed by requesting Physician and forwarded to Utilization Management Unit)

PATIENT NAME <u>WILLIAMS, ANTONIO</u>	CDC NUMBER <u>505660</u>	INSTITUTION <u>CCI-4B</u>
DATE OF BIRTH <u>12/26/63</u>	EPID DATE <u>LIFE</u>	GENDER <u>MALE</u>
PRINCIPLE DIAGNOSIS <u>@ SHOULDER PAIN</u>	ICD - 9 CODE	CPT CODE(S)
REQUESTED SERVICE(S) <u>ORTHO CONSULT - TELEMED</u>	# OF DAYS RECOMMENDED	

Please circle all that apply: Diagnostic Procedure/Consultation Outpatient/Inpatient Initial/Follow-up

Requested Treatment/Service is: EMERGENT URGENT ROUTINE

For the purpose of retrospective review, if emergent or urgent, please justify.

Proposed Provider: Dr. Amir Anticipated Length of Stay: _____

Expected disposition (i.e.: outpatient follow-up, return to institution, transfer): _____

Medical Necessity (briefly describe the clinical situation, the history of the illness, treatments used, pertinent lab and imaging studies, or questions for the consultant): 4140 HT @ HAS POSEIDENT PAIN @ SHOULDER
& INTERIOR PROTRUSION
INJURY DATED 5/14/2002 - AT HT OUSLET SP.

Estimated time for service delivery, recovery, rehabilitation and follow-up: _____

Summary of preliminary or diagnostic work up, conservative treatment provided (if applicable, please provide TB code, CD4, viral load, albumin, total protein and dates within last 3 months): _____

Comments (diagrams, risk factors, prognosis, alternative management, etc.): MR. Spending - to go to DM
44 / to MARC

REQUESTING PHYSICIAN PRINTED NAME <u>W O'BRIEN MD</u>	APPROVED / AUTHORIZED / DENIED / DEFERRED BY <u>DR. MARC 8/4/05</u>	DATE <u>7/27/05</u>
REQUESTING PHYSICIAN SIGNATURE <u>W O'Brien MD</u>	DATE <u>7/25/05</u>	Utilization management tracking #: <u>050603080270</u>
DATE OF CONSULTATION <u>5-2-06 1/2-1/2 @ RAR 7/19/06</u>	PRINTED NAME OF CONSULTANT <u>Dr. Amir Tanji</u>	

FINDINGS: _____

surgical rec.

RECOMMENDATIONS: W/AM / FU -> to rec'd by Dr VO.
errorFOLLOW-UP OR FURTHER EVALUATIONS REQUESTED: Awaiting dictations!

CONSULTANT SIGNATURE <u>DR Tanji via telemed</u>	DATE <u>7/19/06</u>	CDC NUMBER, NAME (LAST, FIRST, MI) AND DATE OF BIRTH <u>Received in TM 8/8 Faxed to HSD 8/8</u> <u>To UM 8/23</u> <u>WILLIAMS, ANTONIO</u> <u>505660</u>
ETA RN SIGNATURE <u>CRERD telemed</u>	DATE <u>7/19/06</u>	
PCP SIGNATURE <u>W O'Brien MD</u>	DATE <u>8/16/06</u>	

Attach Progress Note page for additional information
THIS FORM MUST BE RETURNED WITH THE PATIENT!!!

DISTRIBUTION:
 ORIGINAL - FILE IN UHR
 GREEN - TO UHR PENDING ORIGINAL
 CANARY - CONSULTANT
 PINK - UM
 GOLD - SPECIALTY SCHEDULER

RECEIVED
 AUG 24 2006

12/26/63
to scheduler 8/23 W

To TM 12/6/05

EXH C

F47943.

PC

STATE OF CALIFORNIA
1-22 (8/92)

INMATE REQUEST FOR INTERVIEW

DEPARTMENT OF CORRECTIONS

DATE	TO	FROM (LAST NAME)	CDC NUMBER
12-6-06	Medical Records	WILLIAMS, A	J05660
USING	BED NUMBER	WORK ASSIGNMENT	JOB NUMBER
8-A-206			
OTHER ASSIGNMENT (SCHOOL, THERAPY, ETC.)			ASSIGNMENT HOURS
			FROM TO
			FROM TO

Clearly state your reason for requesting this interview.

You will be called in for interview in the near future if the matter cannot be handled by correspondence.

I AM REQUESTING A COPY OF 11-28-06 DATED SURGICAL, ARTHROSCOPY
DIAGNOSIS, PROCEDURE DONE AT CORCORAN DISTRICT HOSPITAL
+ A COPY OF 5-14-02 DATED 7219 MEDICAL REPORT
BY HIGH DEBERT PRISON

INTERVIEWED BY	DATE

DISPOSITION
Sent 12-11-06

CORCORAN DISTRICT HOSPITAL

1310 HANNA AVE., CORCORAN, CA 93212

PHYSICIAN'S ORDERS

Williams, Antonio J05660

ROOM N
(ADDRESS)

HOSP. N: 111462 RM- 048368 P/T-O/P

PHYSICIAN WILLIAMS A J05660 ANT N 42

SMITH DAVI

EXP 11/28/06 B/D 12/26/63

ROOM 112c

AGE 42 WEIGHT 133 SEX M

DRUG ALLERGIES

NKA

Date
Time

Another brand of drug identical in form
and content may be dispensed unless checked

DO NOT USE THIS SHEET

UNLESS A RED NUMBER SHOWS

Admit To ACS Surgery: Services of Dr. David Smith

DX: (R+) Shoulder Dislocation

Consent For: Anterior Capsular Repair (R) shoulder

Under General Anesthesia

NPO

IV LR @100 cc/hr via Anesthesia Tubing

X Avoid LT(RT) ARM IV or Arm Bands

X Ancel 1 GM IVPB upon call to OR. If allergic to Ancel, give either

Cipro 400mg or

Levaquin 500mg IVPB.

Patient in custody from CSP-SATF CSP-Corcoran X CSP-CCI-Tehachapi

Labwork and x-rays to be brought from prison, or obtained STAT/ASAP upon admit if unavailable. CBC, PT, PTT, P-14, EKG if 40 years or over, obtain CXR only if smoker or adverse lung conditions. If diabetic, do F.S. blood sugar upon admit.

Surgery orders Dr. David Smith

noted 11/28/06 1000 Sanders

David G. Smith, MD

EXH F

IN THE U.S. DISTRICT
FOR NORTHERN CALIFORNIA

ORIGINAL
FILED
APR 27 2007
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
BANKING

ANTONIO L. WILLIAMS
VS
N. ALBONICO ET, AL

CASE NO.
C07-0421

LETTER TO
JUDGE WILKEN
TO CALL FEDERAL
RECEIVER OVER
C.B.C MEDICAL
ROBERT WILKEN
FOR INVESTIGATION:

ON APR 1ST 07 I SENT KNOWN
AND KNEW LEGAL, CONFIDENTIAL
MAIL TO COURT APPOINTED FEDERAL
RECEIVER ROBERT WILKEN 1731
TECHNOLOGY DR. SUITE 700 SAN JOSE,
CALIF 95110 PHONE NUMBER (408) 436-6800
ATTACHED OF A TRUST WITH ORAWL
FORM FOR MAIL POSTAGE DUE TO
INDIGENCY AND SENT TO MAIL ROOM
FOR MAILING PER TITLE 153314 PER
CONFIDENTIAL MAIL, ON APR 2, 07 MAIL-
ROOM SERGEANT J. CULPEPPER AND
ON IT'S MAIL ROOM SUPERVISOR ELVA
ATENCIO RETURN THIS MAILING
CITING FRAUDULENTLY AND BY
PERTURY RETURNED THIS MAILING
AND WROTE ON THE TRUST WITH ORAWL
FORM NOT LEGAL MAIL AND REFUSED
TO MAIL IT UNDER INDIGENCY AN



1 NOTED & FUNDS IN ACCOUNT DECEMBER
 2 A ON APR 2, 07 I SENT BACK TO
 3 MAILROOM BY 2ND WATCH HOURS
 4 OFFICER CIO MILES RETURNED ADDRESS
 5 ED LEGAL, CONFIDENTIAL MAIL TO FED-
 6 ERAL RECEIVER ROBERT LILLEN ATTACHED
 7 AND PLACED ON THIS MAILING WAS
 8 10 STAMPS FOR POSTAGE COVERAGE
 9 ALSO ATTACHED TO MAILING WAS
 10 A INMATE 602 APPEAL FORM TO MAIL-
 11 ROOM SUPERVISOR E. ATENCIO IN WHICH
 12 I WAS APPEALING THE RETURNING
 13 OF THE LEGAL MAILING OF TO FEDERAL
 14 RECEIVER ROBERT LILLEN AN REQUEST.
 15 ED THIS LEGAL MAIL BE PROCESSED
 16 AS US AND MAILED THE APPEAL
 17 WENT IGNORED AN NOT RETURNED TO
 18 ME, ON APR 10, 07 I SENT A REQUEST
 19 FORM TO MAILROOM DEARGANT J. CULPPER
 20 FOR A COPY OF THE LEGAL MAIL OUT-
 21 GOING PRINTOUT SHOWING IT WAS SENT,
 22 MAILED TO FEDERAL RECEIVER ROBERT
 23 LILLEN AND MAIL SGT. J. CULPPER IN
 24 IGNORING, REFUSING TO DO SO AND
 25 CONTEND THE MAILING TO FEDERAL
 26 RECEIVER ROBERT LILLEN WAS WITH-
 27 HELD FROM BEING MAILED ON



1 ORDERS FROM THE WARDEN ADMIN
 2 TO OBSTRUCT, PREVENT FROM NOTIFY
 3 ING FEDERAL RECEIVER ROBERT GILLEN
 4 THAT AFTER 42290 PRISON AUTHORIT-
 5 IES GOT ME ALL THE WAY TO OPER-
 6 ATING TABLE IGNORED DR. ORDERS
 7 CHANGED THERE MIND ON SURGICALLY
 8 REPAIRING MY DISLOCATED SHOULDER
 9 ABANDONING TO GO TO IGNITE FIRE
 10 THEN CRUEL UNUSUAL PUNISHMENT,
 11 PAIN SUFFERING AS HE NOW BEEN WITH-
 12 OUT TREATMENT FOR HIS DISLOCATED
 13 SHOULDER SUR AND A COURT ORDER
 14 PICTURE OF SHOULDER WILL VERIFY BONE
 15 PROTRUSION ON RIGHT SHOULDER, PLAINT-
 16 IFF LETTER, DOCUMENTS ARE IMPORTANT
 17 AND REQUIRES A RESPONSE AND AS
 18 PLAINTIFF REQUESTED ASSISTANCE
 19 INTERVENTION FOR HIS GUARANTEED
 20 RIGHT TO HAVE HIS DISLOCATED
 21 SHOULDER SURGICALLY REPAIRED
 22 AND HIS POSITION GOES TO THE
 23 CORE AND HEART OF CHANGING
 24 AND CORRECTING MEDICAL NEGLIGENCE,
 25 ABUSE. FEDERAL RECEIVER
 26 ROBERT GILLEN IS APPOINTED
 27 BY U.S. DISTRICT COURT JUDGE



1 THELTON HENDERSON FOR NORTHERN
2 CALIFORNIA TO OVERSEE CORRECTIVE
3 PLANS CHANGED INTERVENTION POLICIES
4 PLAINTIFF WENT FEDERAL RECEIVER INFO
5 COURT FILED MATERIALS PENDING IN U.S.D.C.
6 EASTERN DISTRICT IN MI
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I DECLARE UNDER
PENALTY OF PERJURY
ALL TRUE
DATED:

Antonio Williams



EXH E

IN THE U.S. DISTRICT FOR
THE NORTHERN CALIFORNIA

ORIGINAL
FILED
APR - 9 2007
RICHARD W. WIEGAND
CLERK U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND

ANTONIO L. WILLIAMS

VS

N. ALBONICO ET, AL

CASE NO. 07-0421

LETTER AFFAD-

AVIT TO AS-
IGNED Judge

WILKEN

PLAINTIFF COME BEFORE THE COURT
WITH LETTER AFFAD AVIT TO Judge
WILKEN AS THIS INFO IS A PART OF
THIS ACTION BEFORE THE COURT AN
ACTED UPON CONSIDERED AN ALSO
TAKEN IN ACCOUNT IN GRANTING
MOTION FOR SETTLEMENT CONFERENCE
WITH ASSIGNED Judge AND IN SETT-
LING THIS OVERDUE CASE PENDING
ON FEB 22, 05 IN WILLIAMS VS J. AR-
CHOFF OF D.O.J CASE NO. 04-1329 THIS
SAME COURT, Judge DISMISSED THIS
ACTION STIPULATING IN THE ORDER
ON PG 7 LINES 10-22 THAT I DIDNT
APPEAL FOR INVESTIGATIVE RECORDS, INFO
ETC PERTINENT EXCESSIVE FORCE AND DID
NT EXHAUST Remedies ~~WAS OVER~~
~~LOOKED~~ AND ACTED ERRONEOUS IN GRANT-
ING THE MOTION FOR SUMMARY Judge-

MENT See Exh A Feb 22, 05 COURT
ORDER; PLAINTIFF DID APPEAL AND
SUBMITTED A Feb 15, 05 FILED AFF-
IDAVIT ENCLOSED IS EXHIBIT 8 THERE-
IN WHICH IS A JAN 18, 05 LETTER FROM
U.S. D.O.J. F.O.I.A CO DIRECTOR RICHARD
L. HUFF ^{VERIFYING} ~~very~~ I DID APPEAL AND
HE CLOSED FILES BECAUSE ^{I FILED} ~~SA~~
THE THEN PENDING COMPLAINT AGAINST
DEPT. OF JUSTICE See Exh B AFFIDAVIT
IT FILED Feb 15, 05 ENC JAN 18, 05
SAID LETTER MARKED THEREIN AS
EXHIBIT 8 "PLAINTIFF STATES HE'S
STILL WITHOUT TREATMENT TO
REPAIR HIS DISLOCATED SHOULDER
AS PRISON AUTHORITIES TRANSPORTED
PLAINTIFF TO CORCORAN PRISON
HOSPITAL FOR SURGERY ON ORTHOPEDIC
DR. TANTI RECOMMENDED AS REQUIRED
BEFORE I ENTERED THE OPERATING
ROOM THE PRISON SURGEON DR. SMITH
CHANGED HIS MIND ON C.D.C
ORDERS OF INTERFERENCE TO IGNITE
FURTHER CRUEL UNUSUAL PUNISHMENT
TO REPAIR DISLOCATED SHOULDER
HAD PLAINTIFF SIGNED ANOTHER

MEDICAL SURGERY CONSENT FORM
 AFTER SIGNING ONE TO REPAIR DISLOC-
 ATED SHOULDER TO A EXAM UNDER
 GENERAL ANESTHIA / POSSIBLE SHOULDER
 REPAIR THIS INFO IS SUPPORTED BY
 FACTS, DOCUMENTS INCLUDING NOT TAK-
 REFUSING TO TAKE ME BACK FOR THE
 TWO WEEK FOLLOW UP APPOINTMENT
 ATTACHED TO A CITIZEN'S COMPLAINT
 FEDERAL INQUIRY GRAND JURY COMPLAINT
 DATED ³⁻⁸⁻⁰⁷ COMPLAINT AGAINST ATTY GEN, WA
 CHIEF MEDICAL OFFICER ADDRESSED TO
 FEDERAL GRAND JURY AT FEDERAL BUILD-
 ING OF FRENO, CALIF. ^{SEE EXHIBIT C} HAD SENT FOR MAIL-
 ING TO PRISON MAIL ROOM FOR MAILING
 I NEVER RECEIVED REQUIRED ACKNOWLEDG-
 MENT LETTER FROM GRAND JURY AND
 CONTENT PRISON MAIL SERGEANT J. CULPE
 MAIL ROOM SUPERVISOR E. ATENCIO WITH
 IT FROM BEING MAIL ON FACILITY WARD
 W. J. SULLIVAN ORDERS AS MAIL ROOM SU-
 VISOR E. ATENCIO IS IGNORING, REFUSING,
 SEND INMATE PRINTOUT OF MAILING
 LEGAL
 be MAILED.

I DECLARE UNDER
 PENALTY OF PERJURY
 ALL TRUE

DATE:

Ontario



U.S. Department of Justice

EXH H Federal Bureau of Investigation

In Reply, Please Refer to
File No.

450 Golden Gate Avenue
San Francisco, CA 94102-9523

December 13, 2004

Antonio Luis Williams, J-05660
Pelican Bay State Prison, A-2-232
P.O. Box 7500
Crescent City, CA 95814

Dear Mr. Williams:

This letter is in reference to your letter postmarked April 5, 2004, addressed to the Sacramento FBI Office. Your letter has been forwarded to this division.

It is suggested you utilize your institution's existing grievance procedures and/or seek the assistance of your staff counselor, to try to obtain assistance. If those efforts prove unsuccessful and you have a colorable claim under federal law, you may consider filing a civil rights complaint in U.S. District Court for the Northern District of California, pursuant to provisions of Title 42, U.S. Code, Section 1983. You can write to the Clerk of the Court for that court to request a form and instructions for filing such a complaint.

Very truly yours,

MARK J. MERSHON
Special Agent in Charge

Brenda M. Atkinson

By:
BRENDA M. ATKINSON
Acting Supervisory
Special Agent

EXH 5

ORIGINAL
FILED

AUG 10 2007

CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
BY _____
DEPUTY CLERK

IN THE U.S. DISTRICT COURT
FOR THE EASTERN DISTRICT

ANTONIO L. WILLIAMS
VS
N. ALBONICO ET, AL

CASE NO.

CIV-07-0982 GEB KJM

AFFIDAVIT OF
OBJECTION
PROSECUTION
OF COLORABLE
CLAIM UNDER
FEDERAL LAW AND
TOLL STATUTE OF
LIMITATION

PETITIONER CAME BEFORE THE COURT WITH
OBJECTIONS TO THE REFUSAL, DELAY IN
OBJECTION OF AND TO PROSECUTE HIS
ASSAULT, EXCESSIVE FORCE COMPLAINT
BY ABUSED DISCRETION RULING, BIAS,
JUDICIAL AND AN INTERFERENCE IN LIEU
OF PLEADING PHYSICAL INJURY UNTHREAT-
ED OF FIVE YEARS AND APART OF U.S. DIST.
OPEN INVESTIGATION PETITIONER PLEAD
THIS INFO ON RECENT RULING BY JUDGE
W. WUNDERLICH, K. MUELLER SEE EXH A LETTER
FILED JULY 607 AND EVENT OF FURTHER OB-
STRUCTION AND POSSIBLE REFILE AND OF JUDICIAL
MISCONDUCT COMPLAINT REVIEW OF NO JO UN-
CORRECTED TIMES TOLLED SEE CONCEALMENT OF INFO
TOLL STATUTE OF LIMITATION, 10:19, BLACKIE WICK
V. COUNTY OF SUFFOLK, 29 F. SUPP. 2D 134 (E.D. NY 1998)

I DECLARE UNDER
PENALTY OF PERJURY
ALL TRUE.

DATED: 8-5-07

Antonio Williams

EXH A

IN THE U.S DISTRICT COURT FOR
EASTERN DISTRICT OF CALIF

ANTONIO LUIS WILLIAMS
VS
N. ALBONICO ET, AL

ORIGINAL
FILED

JUL 06 2007

CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
BY DEPUTY CLERK

CASE NO.
CIV 07-0932 GEB KJM

LETTER TO ASSIGN
ED JUDGE MULLER
ATTACHED OF DEC
105, FEB 22, 05
COURT ORDERS
STIPULATING CASE
BEFORE IT WILL
NOT BE DISMISSED
AND IS A OPEN
U.S D.O.J INVEST-
IGATION; AND 28 USC
515 (6) IS PROPER;
FOR PROSECUTION OF
CASE.

PLAINTIFF COME BEFORE THE COURT
WITH SAID LETTER AS TITLED ATTACH-
ED OF DEC 1, 05, FEB 22, 05 COURT ORDERS
ON 6-1-07 THIS COURT ISSUED A ORDER
TO SHOW CAUSE IN WHICH PLAINT-
RESPONDED THERETO, IN IT'S COURT
ORDER OF 6-1-07 THE COURT SAID
ON PG 2 OF IT'S ORDER IN WILL TO-
VS WINDLOW ET, AL CASE NO. CIV 05-355-
WWW PLAINTIFF WAS BARRED FROM
ING IN THAT CASE ON JUNE 7
MAGISTRATE JUDGE

WILLIAM WUNDERLICH AFTER THIS COURT
 STATED THAT A WEEK LATER HE DID
 BIASLY, PREJUDICALLY FOR SELF INTER-
 EST, APPARENTLY BY POLITICAL MOTIV-
 ATION DENIED PETITIONER RIGHT UNDER
 28 U.S.C § 1915 IGI TO PROCEED IN FORMA
 PAUPERIA TO BE TREATED BY COURT
 ORDER FOR INJUNCTIVE RELIEF AN AUTHOR-
 IZED BY 28 U.S.C § 2283, 2284 AN RULE 65 AM
 OF THE FEDERAL RULES OF CIVIL PROCED-
 URE INCLUDING OBSTRUCTING THE DEC 1, 05
 COURT ORDER BY JUDGE CLAUDIA WILKEN
 IN A CONSOLIDATED TRANSFERRED CASE
 AND LEAVING ME INJURED, UNTREATED
 DISLOCATED WHOEVER IN A ONGOING F.B.I
 INVESTIGATION see EXH A, B Dec 1, 05, Feb 22, 05
COURT ORDER. THIS CASE BEFORE THE
 COURT IS A OPEN ONGOING F.B.I INVESTIG-
 ATION, COLORABLE CLAIM UNDER FEDERAL
 LAW AND THIS COURT MUST GRANT
 PLAINTIFF RELIEF PURSUANT 28 U.S.C § 1915
 IGI REGARDLESS OF U.S MAGISTRATE
 JUDGE WUNDERLICH ACTIONS OF BIAS, ETC
 THEREIN THIS COURT MUST FOLLOW RULES OF LAW
 JURISDICTION see EXH C MAGISTRATE WUNDERLICH
 CONCERNING COURT ORDER
 BIAS 6-7-07 COURT ORDER.
 I DECLARE UNDER
 PENALTY OF PERJURY
 ALL TRUE.
 DATED: Antonio Williams

"EXHA"

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

ANTONIO LUIS WILLIAMS,

Plaintiff,

v.

DIRECTOR OF DOJ, JOHN ASHCROFT,
ET AL.,

Defendants.

ORIGINAL
FILED

FEB 22 2005

No. C 04-1329 CW (PR)

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND
ORDER GRANTING DEFENDANTS'
MOTION FOR SUMMARY JUDGMENT
AND TERMINATING ALL PENDING
MOTIONS

(Docket nos. 27, 8, 9, 11, 12,
14, 15, 20, 21, 22, 24, 25,
31, 32, 34, 38)

INTRODUCTION

Plaintiff Antonio Luis Williams, a State prisoner incarcerated at Pelican Bay State Prison (P BSP), filed this civil action under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, requesting the Court to enjoin Defendants, officials of the Department of Justice (DOJ), from denying him access to documents which will prove that he is innocent of the crimes for which he was convicted.¹ The Court directed Defendants to respond to the complaint. Now pending is Defendants' motion for summary judgment, which has been briefed fully by the parties. For the reasons discussed below, the Court GRANTS the motion for summary judgment.

STANDARD OF REVIEW

Summary judgment is properly granted when no genuine and disputed issues of material fact remain and when, viewing the evidence most favorably to the nonmoving party, the movant is

¹This Court denied on the merits Petitioner's federal petition for a writ of habeas corpus challenging the constitutional validity of his conviction. See Williams v. Runnels, 02-2310 CW (Order Denying Petition for a Writ of Habeas Corpus, Mar. 4, 2004). Petitioner appealed that ruling to the Ninth Circuit. On January 18, 2005, the Ninth Circuit affirmed the judgment of the District Court.

United States District Court
For the Northern District of California

1 clearly entitled to prevail as a matter of law. Fed. R. Civ. P.
2 56; Celotex Corp. v. Catrett, 477 U.S. 317, 322-23 (1986);
3 Eisenberg v. Ins. Co. of N. Am., 815 F.2d 1285, 1288-89 (9th Cir.
4 1987).

5 The moving party bears the burden of showing that there is no
6 material factual dispute. Material facts which would preclude
7 entry of summary judgment are those which, under applicable
8 substantive law, may affect the outcome of the case. The
9 substantive law will identify which facts are material. Anderson
10 v. Liberty Lobby, Inc., 477 U.S. 242, 248 (1986). Where the moving
11 party does not bear the burden of proof on an issue at trial, the
12 moving party may discharge its burden of showing that no genuine
13 issue of material fact remains by demonstrating that "there is an
14 absence of evidence to support the nonmoving party's case."
15 Celotex, 477 U.S. at 325. The burden then shifts to the nonmoving
16 party, who must go beyond the pleadings and, by its own affidavits
17 or discovery, "set forth specific facts showing that there is a
18 genuine issue for trial." Fed. R. Civ. P. 56(e). A complete
19 failure of proof concerning an essential element of the nonmoving
20 party's case necessarily renders all other facts immaterial.
21 Celotex, 477 U.S. at 323. For purposes of summary judgment the
22 court must regard as true the opposing party's evidence, if
23 supported by affidavits or other evidentiary material. Celotex,
24 477 U.S. at 324; Eisenberg, 815 F.2d at 1289.

25 BACKGROUND

26 The following statement of facts is undisputed unless
27 otherwise noted, and is taken from the allegations in Plaintiff's
28 verified complaint and the declarations and evidence submitted by

United States District Court
For the Northern District of California

1 the parties in support of and in opposition to the motion for
2 summary judgment.

3 In February, 2000, Plaintiff sent what he refers to as a
4 "corruption complaint" against the Oakland Police Department to
5 John Ashcroft at the DOJ. In January, 2001, he sent a copy of a
6 September, 2000, complaint to President Bush, informing him that
7 DOJ officials had taken no action. Plaintiff received a letter
8 from the DOJ dated February 26, 2001. The letter was from the
9 Special Litigation Section of the Civil Rights Division (CRD). It
10 informed Plaintiff that the CRD's authority does not extend to
11 investigating individual grievances and suggested that Plaintiff
12 consider contacting a private attorney. See Hermilla Decl. in
13 Support of Motion for Summary Judgment, Ex. B. The letter was
14 assigned DOJ file number 168-11E-0/125981.

15 Thereafter, Plaintiff submitted a FOIA request to the DOJ
16 asking for all information and documents contained in DOJ file
17 number 168-11-E-0/125981. The CRD received the request on July
18 2002, and the FOI/PA Branch of the CRD received the request on
19 March 7, 2003. See id., Ex. A. In response to the request, t
20 FOI/PA Branch searched to locate responsive records and determ
21 that, other than the February 26, 2001, letter from the Speci
22 Litigation Section, the CRD had no responsive documents. Thi
23 determination was confirmed by the fact that Plaintiff's Feb
24 26, 2001, letter had a "0" file number, which indicated that
25 investigation was opened and that any records in the "0" fi
26 have been destroyed in accordance with the National Archive
27 Records Administration records retirement schedule.
28 In a letter dated August 13, 2003, the Chief of the E

United States District Court
For the Northern District of California

1 Branch explained to Plaintiff that no documents existed within DOJ
2 file 168-11E-0 and informed him of his appeal rights. On September
3 5, 2003, Plaintiff sent an appeal to the DOJ Office of Information
4 and Privacy. In a letter dated November 26, 2003, that office
5 affirmed the CRD's actions.

6 Plaintiff filed this action on April 6, 2004. In an Order
7 dated June 24, 2004, the Court directed Defendants to respond to
8 the complaint. Upon receiving the Court's Order, the FOI/PA Branch
9 learned for the first time of letters that Plaintiff had sent to
10 Tamara Miller, the former Deputy Chief of the Criminal Section.
11 The FOI/PA Branch then conducted additional FOIA searches--both
12 manual and computer-based--to determine if there were any further
13 responsive documents. The FOI/PA Branch's additional searches
14 revealed that the Criminal Section had opened a file and sent
15 information relating to Plaintiff's allegations to the Federal
16 Bureau of Investigation (FBI). The FOI/PA Branch's additional
17 inquiry also revealed that the Criminal Section's file on the
18 matter is an open investigation.

19 In a letter dated September 3, 2004, the FOI/PA Branch
20 informed Plaintiff that he might wish to contact the FBI to request
21 any documents relating to his allegations. In addition, on
22 September 14, 2004, the FOI/PA Branch produced eighteen pages of
23 responsive documents relating to the Criminal Section's open
24 investigation, but withheld fourteen pages of documents under
25 various provisions of the FOIA. Specifically, the CRD denied
26 Plaintiff access to attorney e-mails and other notes regarding its
27 investigation of Plaintiff's allegations, pursuant to 5 U.S.C.
28 § 552(b)(7)(A), on the ground that disclosure thereof could

1 reasonably be expected to interfere with ongoing law enforcement
2 proceedings. The CRD also denied access to these records pursuant
3 to 5 U.S.C. § 552(b)(5), on the ground that the records contain
4 attorney work product and pre-decisional deliberative materials,
5 and pursuant to 5 U.S.C. § 552(b)(7)(C), on the ground that
6 disclosure thereof could reasonably be expected to constitute an
7 unwarranted invasion of the personal privacy of witnesses,
8 interviewees and/or targets. Plaintiff did not file an appeal
9 regarding the September 14, 2004, response to his request.

10 DISCUSSION

11 The FOIA mandates a policy of broad disclosure of government
12 documents when production is properly requested of an agency. See
13 5 U.S.C. § 552(a). The FOIA obligates the government to produce
14 documents within its "possession or control." See Kissinger v.
15 Reporters Comm. for Freedom of Press, 445 U.S. 136, 150-51 (1980).
16 If a government agency claims that it does not possess or control a
17 requested document, the agency must show it fully discharged its
18 statutory obligations by conducting a search reasonably calculated
19 to uncover all relevant documents. See Urban v. United States, 72
20 F.3d 94, 95 (8th Cir. 1995); Weisberg v. United States Dep't of
21 Justice, 705 F.2d 1344, 1351 (D.C. Cir. 1983). The issue to be
22 resolved is not whether there might exist any other documents
23 possibly responsive to the request, but rather whether the search
24 for those documents was adequate. The adequacy of the search, in
25 turn, is judged by a standard of reasonableness and depends upon
26 the facts of each case. See Zemansky v. EPA, 767 F.2d 569, 571
27 (9th Cir. 1985).

28 An agency may withhold a requested document only if it falls

United States District Court
For the Northern District of California

1 within one of nine statutory exemptions to the disclosure
2 requirement. See Dobronski v. FCC, 17 F.3d 275, 277 (9th Cir.
3 1994) (citing 5 U.S.C. § 552(b)). The FOIA establishes federal
4 district court jurisdiction to conduct de novo review of agency
5 decisions to deny requested access to agency records. Jurisdiction
6 is dependent upon a showing that an agency has (1) improperly (2)
7 withheld (3) agency records. See Kissinger, 445 U.S. at 150.
8 "Judicial authority to devise remedies and enjoin agencies can only
9 be invoked, under the jurisdictional grant conferred by § 552, if
10 the agency has contravened all three components of this
11 obligation." Id.

12 The FOIA requires that administrative appeals be exhausted
13 before suit may be brought in federal court. See Hymen v. Merit
14 Systems Protection Bd., 799 F.2d 1421, 1423 (9th Cir. 1986), cert.
15 denied, 481 U.S. 1019 (1987). Failure to do so is grounds for
16 dismissal for lack of subject matter jurisdiction. Id.

17 Defendants argue that Plaintiff's complaint must be dismissed
18 as moot because the CRD FOI/PA Branch has provided him with
19 eighteen pages of responsive documents and he has not challenged
20 that decision. Defendants also assert that any challenge to their
21 withholding of fourteen pages of exempt documents under 5 U.S.C.
22 §§ 552(b)(7)(A), (b)(5) and (b)(7)(C) must be dismissed because
23 Plaintiff has not exhausted his administrative remedies.

24 The Court agrees with Defendants' assessment. An action to
25 compel the production of documents under the FOIA is mooted when
26 the agency in control of the requested documents delivers them to
27 the plaintiff. See Carter v. Veterans Admin., 780 F.2d 1479, 1481
28 (9th Cir. 1986). Dismissal is then warranted. See id. This is so

1 even if the documents are provided after the Plaintiff has filed
2 suit in district court, and notwithstanding the agency's initial
3 provision of erroneous and incomplete information to the Plaintiff.
4 Id.; see also Papa v. United States, 281 F.3d 1004, 1013 (9th Cir.
5 2002) (production of all nonexempt material, however belatedly,
6 moots FOIA claims). Here, Plaintiff's complaint sought to enjoin
7 Defendants from withholding documents responsive to his FOIA
8 request. Since the complaint was filed Defendants have provided
9 Plaintiff with all responsive material which they claim is
10 nonexempt. Plaintiff has not challenged this decision by way of an
11 agency appeal and his opposition to Defendants' motion for summary
12 judgment does not address Defendants' argument. Accordingly,
13 because the agency has provided Plaintiff with all responsive
14 nonexempt documents in its possession and Plaintiff has not
15 challenged this decision, his request for Court action is moot.

16 To the extent Plaintiff is dissatisfied with Defendants'
17 response to his FOIA request and seeks access to the documents
18 which Defendants claim are exempt, he must exhaust all DOJ CRD
19 FOI/PA administrative remedies before pursuing such claim in
20 federal court. In his September 14, 2004, letter to Plaintiff,
21 Nelson Hermilla, Chief of the CRD, tells Plaintiff how he can
22 appeal the CRD's decision.

23 Plaintiff has failed to raise a triable issue of fact with
24 respect to whether his claim that Defendants have failed to provide
25 him with responsive documents is moot. He also has failed to raise
26 a triable issue of fact with respect to whether he has exhausted
27 administrative remedies in response to Defendants' refusal to
28 provide him with certain documents. Accordingly, summary judgment

1 is GRANTED to Defendants on the grounds of mootness and
2 nonexhaustion of administrative remedies.

3 PLAINTIFF'S PENDING MOTIONS

4 Since June 28, 2004, Plaintiff has filed fifteen ex parte
5 motions, which the Court now reviews.

6 Plaintiff has filed two motions for immediate injunctive
7 relief. He seeks transfer to a hospital to X-ray a dislocated
8 shoulder he suffered after allegedly being beaten in 2002. This
9 claim was addressed by the Court in Plaintiff's action, Williams v.
10 Runnels, C 04-0782 CW, filed on March 16, 2004. Accordingly, the
11 motions for immediate injunctive relief are DENIED (docket nos. 8,
12 20).

13 Plaintiff has filed two motions asking the Court to recuse
14 itself from presiding over this action. Specifically, Plaintiff
15 maintains that the Court's denial of his federal habeas petition
16 (Williams v. Runnels, C 02-2310 CW) was erroneous and the Court is
17 biased against him. Plaintiff's allegations are legally
18 insufficient to establish that the Court has a personal bias or
19 prejudice against him. Accordingly, the motions for recusal are
20 DENIED (docket nos. 9, 24). See 28 U.S.C. § 144; United States v.
21 \$292,888.04 in U.S. Currency, 54 F.3d 564, 566 (9th Cir. 1995)
22 (affidavit inadequate when based on mere conclusory allegations).
23 Plaintiff's motions asking the Court to notify the Ninth Circuit
24 that his conviction should be reversed based on newly discovered
25 evidence are also DENIED (docket nos. 31, 34, 38). Plaintiff
26 should have raised any arguments concerning this Court's ruling on
27 his habeas petition to the Ninth Circuit in his appeal.
28 Plaintiff has filed two motions to award monetary damages.

1 Damages are not available in a FOIA action. See 5 U.S.C.
2 § 552(a)(4)(B); Gale v. United States Dep't of Justice, 628 F.2d
3 224, 226 n.4 (D.C. Cir. 1980). Accordingly, these motions are
4 DENIED (docket nos. 14, 32).

5 Plaintiff has filed two discovery motions asking the Court to
6 order the DOJ to provide him with documents. Access to these
7 documents is the gravamen of Plaintiff's FOIA claim, which has been
8 denied for the reasons set forth above. Accordingly, these
9 discovery requests are DENIED as moot (docket nos. 11, 21).

10 Plaintiff has filed a motion asking the Court to reconsider
11 that portion of its June 24, 2004, Order dismissing Plaintiff's
12 non-FOIA claims. Plaintiff has not presented persuasive grounds
13 for reconsideration. Accordingly, this motion is DENIED (docket
14 no. 12). See Civil L.R. 7-9.

15 Plaintiff's motions to appoint counsel, to call an expert
16 witness and for leave to proceed in forma pauperis are DENIED as
17 moot (docket nos. 15, 22, 25).

18 CONCLUSION

19 For the foregoing reasons, Defendants' motion for summary
20 judgment is GRANTED. (Docket no. 27). The Clerk of Court shall
21 terminate all pending motions and enter judgment in favor of
22 Defendants.

23 IT IS SO ORDERED.

24 DATED: 2/22/05

25 /s/ CLAUDIA WILKEN

26 CLAUDIA WILKEN
27 United States District Judge
28

"EXH B"

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

ANTONIO LUIS WILLIAMS, **ORIGINAL FILED** No. C 05-2002 CW (PR)
Plaintiff, DEC - 1 2005

v.
N. ALBONICO, ET AL. **RICHARD W. WIEKING**
CLERK U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND
Defendants.

ANTONIO LUIS WILLIAMS, No. C 05-4200 CW (PR)
Plaintiff,

v.
DWIGHT WINSLOW, ET AL.,
Defendants.

ORDER CONSOLIDATING AND
TRANSFERRING ACTIONS TO THE
UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF
CALIFORNIA

Plaintiff Antonio Luis Williams is a prisoner of the State of California who was incarcerated at Pelican Bay State Prison (PBSP) when he filed this civil rights complaint. Since June 16, 2005, however, he has been incarcerated at Tehachapi State Prison, which is located in Kern County, California.

In an Order dated December 22, 2004, this Court held that Plaintiff generally is barred from proceeding in forma pauperis in federal court under the provisions of 28 U.S.C. § 1915(g).¹ Both

¹The Prison Litigation Reform Act of 1995 (PLRA), which was enacted on April 26, 1996, provides that a prisoner may not bring a civil action or appeal a civil judgment under the in forma pauperis provisions of 28 U.S.C. § 1915:

[I]f the prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state

1 prior to and since the entry of that Order Plaintiff filed actions
2 seeking to compel prison officials at PBSP to provide him with
3 treatment for an injured shoulder from which he has suffered since
4 prison officials used force against him at High Desert State Prison
5 (HDSP) in 2002. Plaintiff did receive x-rays at PBSP in May, 2004,
6 and the doctor told him that no injury was present. Because
7 Plaintiff was not allowed to see the x-rays, however, he objected
8 to the doctor's conclusion and continued to seek additional
9 diagnostic procedures and medical care.

10 The Court dismissed Plaintiff's complaints without prejudice
11 because of his conceded failure to exhaust administrative remedies,
12 see, e.g., Williams v. McGrath, C 04-2542 CW, and because he had
13 not made the requisite showing for application of the "imminent
14 danger of serious physical injury" exception to § 1915(g), see In
15 re: Antonio Luis Williams, Nos. C 04-5041 CW, C 04-5255 CW, C 05-
16 0253 CW. With respect to the imminent danger exception the Court
17 wrote:

18 If Plaintiff maintains that he is in need of immediate
19 medical care and is unable to pay the filing fee, he may
20 seek leave to proceed with this claim under § 1915(g)
21 PROVIDED that he files a civil rights complaint which
22 asserts ONLY this claim and which names as Defendants
23 those individuals at Pelican Bay State Prison who are
24 responsible for denying him medical care and/or who can
25 provide him with relief. If Plaintiff continues to make
26 conclusory allegations about the care to which he
27 maintains he is entitled and continues to name the Court,
28 who is not responsible for Plaintiff's medical care, as a
Defendant, his actions will be dismissed.

The present complaints are duplicative of past actions
filed by Plaintiff and do not allege facts which fall
within the "imminent danger of serious physical injury"

a claim upon which relief may be granted, unless the prisoner
is under imminent danger of serious physical injury.

1 exception to § 1915(g). Accordingly, they will be
2 dismissed.

3 Order at 3 (Apr. 27, 2005).

4 Shortly thereafter, Plaintiff filed the first of his
5 complaints, Williams v. Albonico, C 05-2002 CW, in which he
6 previously raised allegations that PBSP Warden Joe McGrath
7 conspired with Chief Medical Doctor Dwight Winslow not to
8 for his shoulder injury in an attempt to obstruct an investigation
9 by the Department of Justice (DOJ) into the cause of the injury,
10 and that after he was assaulted at HDSP x-rays were taken of his
11 shoulder on May 15, 2002, but he was told falsely that they were
12 negative. He alleged that the imminent danger exception to
13 § 1915(g) applied because he was in imminent danger of having
14 charges filed against him because of complaints he had filed with
15 the DOJ. It was not until July 22, 2005, when the Court received a
16 document from Plaintiff entitled "Affadavit [sic] of Witness, of
17 Injury," that Plaintiff's request for additional medical care for
18 his shoulder was made clear. By then, Plaintiff had been
19 transferred to Tehachapi State Prison. Since then, Plaintiff has
20 continued to file numerous documents in this action, most of them
21 duplicative, which seek damages from various doctors and injunctive
22 medical relief from doctors at Tehachapi State Prison.

23
24 On October 18, 2005, Plaintiff filed another civil rights
25 action, Williams v. Winslow, et al., C 05-4200 CW, in which he
26 seeks damages for allegedly inadequate medical care by PBSP doctors
27 and injunctive medical relief from doctors at Tehachapi State
28 Prison.

On November 9, 2005, Plaintiff filed a motion to consolidate

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APPELLATE
OFFICE

United States District Court
For the Northern District of California

1 the two pending actions.

2 The Court finds that, standing alone, Plaintiff's claims for
3 damages for inadequate medical care do not meet the imminent danger
4 exception to the exhaustion requirement. But, liberally construed,
5 his claims for injunctive medical relief do. Therefore, the Court
6 will not dismiss the complaints under § 1915(g). Because Plaintiff
7 now is incarcerated at Tehachapi State Prison, however, the Court
8 will transfer the complaints to the United States District Court
9 for the Eastern District of California.

10 Accordingly, in the interests of justice, Plaintiff's request
11 to consolidate these actions is GRANTED. The Clerk of the Court
12 shall CONSOLIDATE the cases into the low case number, C 05-2002 CW,
13 and shall TRANSFER the files forthwith to the United States
14 District Court for the Eastern District of California. 28 U.S.C.
15 § 1406(a).

16
17 IT IS SO ORDERED.

18 DATED: 12/1/05

19
20 *Claudia Wilken*

21 CLAUDIA WILKEN
22 United States District Judge
23
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Exh C

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ANTONIO LUIS WILLIAMS,

Plaintiff,

vs.

CV F 05 1560 LJO WMW P

____ FINDINGS AND RECOMMENDATION

DWIGHT WINSLOW, et al.,

Defendants.

Plaintiff is a state prisoner proceeding pro se in a civil rights action challenging the conditions of his confinement.

Plaintiff, an inmate in the custody of the California Department of Corrections at CCI Tehachapi, brings this civil rights action against an un-named physician contracted to treat Plaintiff at Tehachapi.

This action was filed in the U.S. District Court for the Northern District of California, and transferred to this court. Plaintiff filed three cases in that court. In the order consolidating and transferring the actions to this court, Plaintiff was advised that he has been barred from proceeding in forma pauperis pursuant to 28 U.S.C. § 1915(g). Plaintiff, incarcerated at Pelican Bay State Prison at the time this case was filed, alleged deficient medical care. Plaintiff was specifically advised of the following:

In an order dated December 22, 2004, this Court held that Plaintiff generally is barred from proceeding in forma pauperis in federal

1 court under the provisions of 28 U.S.C. § 1915(g). Both prior to
2 and since the entry of that order Plaintiff filed actions seeking to
3 compel prison officials at PBSP to provide him with treatment for
4 an injured shoulder from which he has suffered since prison
5 officials used force against him at High Desert State Prison in
6 2002. Plaintiff did receive x-rays at PBSP in May, 2004, and the
7 doctor told him that no injury was present. Because Plaintiff was
8 not allowed to see the x-rays, however, he objected to the doctor's
9 conclusion and continued to seek additional diagnostic procedures
10 and medical care.

11 The Prison Litigation Reform Act provides that "[i]n no event shall a prisoner
12 bring a civil action . . . under this section if the prisoner has, on 3 or more occasions, while
13 incarcerated or detained in a facility, brought an action or appeal in a court of the United States
14 that was dismissed on the ground that it is frivolous, malicious, or fails to state a claim upon
15 which relief may be granted, unless the prisoner is under imminent danger of serious injury." 28
16 U.S.C. § 1915(g).

17 This plaintiff has, on 3 prior occasions, brought civil actions challenging the
18 conditions of his confinement. The allegations in this complaint consist of vague references to
19 some orthopedic procedure while Plaintiff was housed at Tehachapi. A review of the December
20 15, 2006, amended complaint reveals that Plaintiff has failed to specifically identify a named
21 defendant at Tehachapi, nor alleged any facts indicating that individual engaged in conduct that
22 subjects Plaintiff to imminent danger of serious physical injury.

23 Accordingly, on March 9, 2007, an order to show cause was entered, directing
24 Plaintiff to show cause why his application to proceed in forma pauperis should not be denied
25 pursuant to 28 U.S.C. § 1915(g), and he be directed to pay the filing fee in full.

26 On March 23, 2007, Plaintiff filed a response to the order to show cause.
Plaintiff's response is 41 pages long and consists largely of copies of his medical filed and
copies of pleadings in other cases that he has filed. Plaintiff has not made a showing that the
operative pleading in this case alleges facts that satisfy the standard set forth in section 1915(g).
The gravamen of Plaintiff's complaint is the quality of the health care he has received. Because

1 Plaintiff has failed to allege facts indicating an imminent danger of serious physical injury, he
2 can not proceed in forma pauperis. Should Plaintiff desire to continue in this action and
3 challenge the constitutional sufficiency of his medical care, he must pay the filing fee in full.

4 Accordingly, IT IS HEREBY RECOMMENDED that:

5 1. Plaintiff's application to proceed in forma pauperis be denied pursuant to 28
6 U.S.C. § 1915(g).

7 2. Plaintiff be directed to pay the filing fee, in full, or suffer dismissal of this
8 action pursuant to Local Rule 11-110 for failure to prosecute.

9 These findings and recommendations are submitted to the United States District
10 Judge assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636 (b)(1)(B). Within
11 thirty days after being served with these findings and recommendations, Plaintiff may file
12 written objections with the court. Such a document should be captioned "Objections to
13 Magistrate Judge's Findings and Recommendations." Plaintiff is advised that failure to file
14 objections within the specified time may waive the right to appeal the District Court's order.
15 Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

16
17
18
19 IT IS SO ORDERED.

20 Dated: June 7, 2007

/s/ William M. Wunderlich
UNITED STATES MAGISTRATE JUDGE

"EXH B"

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

ANTONIO LUIS WILLIAMS, **ORIGINAL FILED** No. C 05-2002 CW (PR)

Plaintiff, DEC - 1 2005

v.

N. ALBONICO, ET AL.

Defendants.

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND

No. C 05-4200 CW (PR)

ANTONIO LUIS WILLIAMS,

Plaintiff,

v.

DWIGHT WINSLOW, ET AL.,

Defendants.

ORDER CONSOLIDATING AND
TRANSFERRING ACTIONS TO THE
UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF
CALIFORNIA

Plaintiff Antonio Luis Williams is a prisoner of the State of California who was incarcerated at Pelican Bay State Prison (PBSP) when he filed this civil rights complaint. Since June 16, 2005, however, he has been incarcerated at Tehachapi State Prison, which is located in Kern County, California.

In an Order dated December 22, 2004, this Court held that Plaintiff generally is barred from proceeding in forma pauperis in federal court under the provisions of 28 U.S.C. § 1915(g).¹ Both

¹The Prison Litigation Reform Act of 1995 (PLRA), which was enacted on April 26, 1996, provides that a prisoner may not bring a civil action or appeal a civil judgment under the in forma pauperis provisions of 28 U.S.C. § 1915:

[I]f the prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state

1 prior to and since the entry of that Order Plaintiff filed actions
2 seeking to compel prison officials at PBSP to provide him with
3 treatment for an injured shoulder from which he has suffered since
4 prison officials used force against him at High Desert State Prison
5 (HDSP) in 2002. Plaintiff did receive x-rays at PBSP in May, 2004,
6 and the doctor told him that no injury was present. Because
7 Plaintiff was not allowed to see the x-rays, however, he objected
8 to the doctor's conclusion and continued to seek additional
9 diagnostic procedures and medical care.

10 The Court dismissed Plaintiff's complaints without prejudice
11 because of his conceded failure to exhaust administrative remedies,
12 see, e.g., Williams v. McGrath, C 04-2542 CW, and because he had
13 not made the requisite showing for application of the "imminent
14 danger of serious physical injury" exception to § 1915(g), see In
15 re: Antonio Luis Williams, Nos. C 04-5041 CW, C 04-5255 CW, C 05-
16 0253 CW. With respect to the imminent danger exception the Court
17 wrote:

18 If Plaintiff maintains that he is in need of immediate
19 medical care and is unable to pay the filing fee, he may
20 seek leave to proceed with this claim under § 1915(g)
21 PROVIDED that he files a civil rights complaint which
22 asserts ONLY this claim and which names as Defendants
23 those individuals at Pelican Bay State Prison who are
24 responsible for denying him medical care and/or who can
25 provide him with relief. If Plaintiff continues to make
26 conclusory allegations about the care to which he
27 maintains he is entitled and continues to name the Court,
28 who is not responsible for Plaintiff's medical care, as a
29 Defendant, his actions will be dismissed.

30 The present complaints are duplicative of past actions
31 filed by Plaintiff and do not allege facts which fall
32 within the "imminent danger of serious physical injury"

33 a claim upon which relief may be granted, unless the prisoner
34 is under imminent danger of serious physical injury.

35 28 U.S.C. § 1915(g).

1 exception to § 1915(g). Accordingly, they will be
2 dismissed.

3 Order at 3 (Apr. 27, 2005).

4 Shortly thereafter, Plaintiff filed the first of his complaints, Williams v. Albonico, C 05-2002 CW, in which he previously raised allegations that PBSP Warden Joe McGrath conspired with Chief Medical Doctor Dwight Winslow not to treat him for his shoulder injury in an attempt to obstruct an investigation by the Department of Justice (DOJ) into the cause of the injury, and that after he was assaulted at HDSP x-rays were taken of his shoulder on May 15, 2002, but he was told falsely that they were negative. He alleged that the imminent danger exception to § 1915(g) applied because he was in imminent danger of having charges filed against him because of complaints he had filed with the DOJ. It was not until July 22, 2005, when the Court received a document from Plaintiff entitled "Affadavit [sic] of Witness, of Injury," that Plaintiff's request for additional medical care for his shoulder was made clear. By then, Plaintiff had been transferred to Tehachapi State Prison. Since then, Plaintiff has continued to file numerous documents in this action, most of them duplicative, which seek damages from various doctors and injunctive medical relief from doctors at Tehachapi State Prison.

23 On October 18, 2005, Plaintiff filed another civil rights
24 action, Williams v. Winslow, et al., C 05-4200 CW, in which he
25 seeks damages for allegedly inadequate medical care by PBSP doctors
26 and injunctive medical relief from doctors at Tehachapi State
27 Prison.
28

On November 9, 2005, Plaintiff filed a motion to consolidate

United States District Court
For the Northern District of California

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APPEALS OFFICE

1 the two pending actions.

2 The Court finds that, standing alone, Plaintiff's claims for
3 damages for inadequate medical care do not meet the imminent danger
4 exception to the exhaustion requirement. But, liberally construed,
5 his claims for injunctive medical relief do. Therefore, the Court
6 will not dismiss the complaints under § 1915(g). Because Plaintiff
7 now is incarcerated at Tehachapi State Prison, however, the Court
8 will transfer the complaints to the United States District Court
9 for the Eastern District of California.

10 Accordingly, in the interests of justice, Plaintiff's request
11 to consolidate these actions is GRANTED. The Clerk of the Court
12 shall CONSOLIDATE the cases into the low case number, C 05-2002 CW,
13 and shall TRANSFER the files forthwith to the United States
14 District Court for the Eastern District of California. 28 U.S.C.
15 § 1406(a).

16 IT IS SO ORDERED.

17 DATED: 12/1/05

18
19 *Claudia Wilken*

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21 CLAUDIA WILKEN
United States District Judge
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U.S. Department of Justice

Civil Rights Division

EXH

ANM:TLM:yl:bah
DJ-144-11E-1434

Criminal Section - PHB
950 Pennsylvania Avenue, N.W.
Washington, DC 20530

NOV 8 2002

14
17
Mr. Antonio Williams
J05660
High Desert State Prison
P.O. Box 3030
Susanville, CA 96127

Dear Mr. Williams:

2/11/02
This is in response to your undated letter, in which you allege that you were physically assaulted by corrections officers in High Desert State Prison on May 14, 2002.

The Federal Bureau of Investigation has been requested to conduct a preliminary investigation into this matter. You can be assured that if the evidence shows that there is a prosecutable violation of federal criminal civil rights statutes, appropriate action will be taken.

Thank you for bringing this matter to our attention.

Sincerely,

Albert N. Moskowitz
Section Chief
Criminal Section
Civil Rights Division

By:

Tamara Miller
Deputy Chief
Criminal Section

cc: Records Chrono Levy T. 10/31/02
S:\ylevy\MyFiles\Correspondence\Citizen Letters\Williams_Antonio
FBI.wpd

Ex 6

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ANTONIO WILLIAMS,

Plaintiff,

2:07-cv-0932-GEB-KJM-P

vs.

N. ALBONICO, et al.,

Defendants.

ORDER

Plaintiff, a state prisoner proceeding pro se, has filed this civil rights action seeking relief under 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local General Order No. 262.

On July 27, 2007, the magistrate judge filed findings and recommendations herein which were served on plaintiff and which contained notice to plaintiff that any objections to the findings and recommendations were to be filed within twenty days. Plaintiff has filed objections to the findings and recommendations.

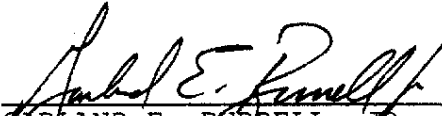
In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 72-304, this court has conducted a de novo review of this case. Having carefully reviewed the entire file, the court finds the findings and recommendations to be supported by the record and by proper analysis.

1 Accordingly, IT IS HEREBY ORDERED that:

2 1. The findings and recommendations filed July 27, 2007, are adopted in full;

3 2. This action is dismissed.

4 Dated: August 30, 2007

5 
6 GARLAND E. BURRELL, JR.
7 United States District Judge
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To be Copied

Exh 7

STATE OF CALIFORNIA
C.A. 22 (1992)

INMATE REQUEST FOR INTERVIEW

DEPARTMENT OF CORRECTIONS

DATE <i>10-31-07</i>	TO <i>C/O Matthews</i>	FROM (LAST NAME) <i>William</i>	ODD NUMBER <i>705660</i>
HOUSING <i>4-A-204</i>	BID NUMBER WORK ASSIGNMENT		JOB NUMBER
OTHER ASSIGNMENT (SCHOOL, THERAPY, ETC.)		ASSIGNMENT BOURS	
		FROM	TO
		FROM	TO

Clearly state your reason for requesting this interview.
You will be called in for interview in the near future if the matter cannot be handled by correspondence.

*on and watch you delivered this legal
addressed envelope attached from clerk
of US District Court Eastern District
of Calif Post marked Aug 30, 07 as per*

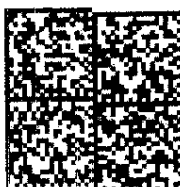
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